

**Chapter 5**  
**INDIVIDUALIZED EDUCATION PROGRAMS**

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## **Chapter 5**

### **INDIVIDUALIZED EDUCATION PROGRAMS**

If a student is eligible for special education services, they have met the requirements of eligibility under IDEA 2004, including a disability that meets the criteria, adversely affects the student's educational performance, and requires specially designed instruction.

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability including instruction in the classroom, the home, hospitals, institutions, and other settings. The definition of special education also includes instruction in physical education, speech/language pathology, travel training, and vocational education.

Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to (1) address the unique needs of the student that result from his or her disability and (2) to ensure access to the general curriculum so that the student can meet the Idaho Content Standards that apply to all students.

The Individualized Education Program (IEP) is a written document that is developed for each eligible student with a disability and documents the specially designed instruction and related services. The IEP is the product of collaboration among a parent and/or adult student, district personnel, and other IEP team members who, through full and equal participation, identify the unique needs of a student with a disability and plan the special education services to meet those needs.

In developing each student's IEP, the IEP team shall consider:

- ▶ The strengths of the student;
- ▶ The concerns of the parents for enhancing the education of their child;
- ▶ The results of the initial or most recent evaluation of the student; and
- ▶ The academic achievement, developmental, and functional needs of the student.

### **Section 1. IEP Initiation**

#### **A. Purpose of Meeting**

The primary purpose of an IEP team meeting is to design an IEP that shall meet the unique needs of a student with a disability. The IEP team plans the special education and related services calculated to enable the student to receive educational benefits in the least restrictive environment. The parent and/or adult student shall be invited to the meeting and in order to participate meaningfully, the parent and/or adult student should be informed of his or her role as

a team member. The parent and/or adult student, district personnel, and other IEP team members should come prepared to discuss specific information about the student's individual needs and the type of services to be provided to address those needs.

The meeting format should invite open discussion that allows participants to identify and consider all the relevant needs of the student related to their disability. Placement decisions shall be considered *after* the special education services are determined. Placement is based on the IEP services and accommodations and shall not be the determining factor in developing the IEP content.

Informal or unscheduled conversations involving district personnel on various issues (e.g., teaching methodology, lesson plans, or coordination of service provisions) are not considered a meeting as long as no decisions are made regarding issues addressed on the student's IEP. A meeting does not include preparatory activities in which district personnel engage to develop a proposal or a response to a parent and/or adult student proposal that will be discussed at a later meeting.

### **B. Team Decision Making**

The IEP meeting serves as a communication vehicle between the parent and/or adult student, district personnel, and other IEP team members that enables them, as equal participants, to make joint, informed decisions regarding the student's special education services. All members of the IEP team are expected to work toward consensus regarding the services that will be included in the student's IEP to ensure that he or she receives a free appropriate public education (FAPE). Consensus means that all members are in general agreement regarding what is written.

If there is a lack of consensus between the parent and/or adult student, district personnel, and other IEP team members regarding an IEP decision, then school personnel on the IEP team should seek consensus and make the decision subject to the due process rights of the parent and/or adult student. If there is a lack of consensus among school personnel, then the district representative on the IEP team shall make the decision.

The district shall follow the procedures in Section 1, "Parent and/or Adult Student Objection to the IEP," if necessary.

### **C. When IEP Meetings Are Held**

An IEP meeting shall be held for one or more of the following reasons:

1. To develop and implement an IEP within 60 calendar days of receiving parent and/or adult student consent for initial evaluation, excluding periods when regular school is not in session for 5 or more consecutive days. With the exception that the meeting to develop the IEP shall be held within 30 days of a determination that the student needs special education and related services. Refer to Chapter 4, Section 3.E regarding

additional timeline exceptions. The IEP shall be implemented as soon as possible following the meeting during which the IEP was developed.

2. To review the IEP periodically, but no longer than 365 days from the date of development of the current IEP. An IEP shall be in effect at the beginning of each school year;
3. When another agency fails to deliver transition or other services outlined in the IEP;
4. To consider revisions to the IEP if there is any lack of expected progress toward annual goals and in the general education curriculum, where appropriate;
5. At the reasonable request of any member of the IEP team;
6. To review behavioral intervention strategies and/or develop a behavioral plan as part of the IEP; or
7. To address the IDEA 2004 discipline requirements (see Chapter 13).

NOTE: Under the IDEA 2004, an IEP team meeting may not be required to amend the IEP (see IEP Amendments).

#### **D. IEP Team Members and Roles**

The IEP Team means a group of individuals who are responsible for developing, reviewing, or revising an IEP for a child with a disability.

NOTE: The general education teacher, special education teacher, district representative, or individual who can interpret implications of evaluation results may be excused from an IEP meeting, in whole or in part, if the parent and/or adult student and district agree to this in writing. If the meeting deals with the excused member's areas, he or she shall provide written input to the IEP team prior to the meeting. Written input shall include substantive data (e.g., based on assessment, providing meaningful guidance to the team, regarding the purpose of the meeting, reflecting on general education curriculum). If the district representative is excused, a staff member in attendance shall have the authority to bind the district to the decisions of the team.

| Role  | Description  |
|---|--|
| <p>Parent of the student<br/> <i>or</i><br/> Adult Student if rights have transferred</p> | <p>The term “parent” refers to a biological or adoptive parent, foster parent, a judicially decreed guardian (does not include state agency personnel if the student is a ward of the state), a person acting in place of a parent, or a surrogate parent who has been appointed by the district. The term “acting in place of a biological or adoptive parent” includes persons such as a grandparent, stepparent, or other relative with whom the student lives as well as persons who are legally responsible for a student’s welfare. A foster parent may act as a parent if the natural parent’s authority to make educational decisions on behalf of his or her child has been terminated by law. A foster parent shall be an individual who is willing to make educational decisions required of a parent, and has no interest that would conflict with the interests of the student.</p> <p>If more than the biological or adoptive parents meet the definition of parent, the biological or adoptive parents serve as the parents in the IEP process, unless a judicial decree or order identifies a specific person or persons to make educational decisions for the student.</p> <p>An “adult student” is a student with a disability who is 18 years of age or older to whom special education rights have transferred under the IDEA 2004 and Idaho Code. (See Chapter 11, Section 2C, for more information.) In this case, the parent may attend the IEP meeting as an individual who has knowledge or special expertise regarding the student at the invitation of the adult student or the district.</p> |
| <p>District Representative</p>  | <p>The district representative or designee shall be qualified to provide or supervise the provision of special education to meet the unique needs of students with disabilities. The representative shall be knowledgeable about the general education curriculum and about the availability of resources in the district. They should have the authority to allocate resources and to ensure that whatever services are outlined in the IEP shall be provided. Examples of the district representative include the building principal, the special education director, the district superintendent and others who meet the criteria described above. The district representative may be another member of the IEP team if all the criteria above are met.</p>   |

| <b>Role</b>  | <b>Description</b>  |
|--|---|
| Special Education Teacher/Provider—not less than one             | This individual will generally be the student’s special education teacher or service provider who is responsible for implementing the student’s IEP. In the case of a student receiving services from a speech-language pathologist, but not a special education teacher, it would be more appropriate for the speech-language pathologist to fill this role on the IEP team.   |
| General Education Teacher—not less than one                      | A general education teacher of the student is required to participate in developing the IEP if a student is, or may be, participating in the general education environment. Regardless, a representative that is knowledgeable of the general education curriculum shall be present. For preschool-age students, the general education teacher may be the kindergarten teacher or an appropriate designee. Designees at the preschool level may include a care provider, Head Start teacher, or community preschool teacher if that person meets state and/or national licensing standards. |
| Individual who can interpret evaluation results and implications | This person may be someone who participated in the evaluation of the student. He or she shall be able to explain the results, the instructional implications, and the recommendations of the evaluation.  |
| Student  | Whenever appropriate, the IEP team includes the student with a disability. A student shall be invited by the district to attend any IEP meeting at which post-secondary goals and transition services needed to assist the student in reaching those goals will be discussed. If the student does not attend the IEP team meeting, the public agency shall take other steps to ensure that the student’s preferences and interests are considered.  |
| Representative of a Private School (if applicable)               | If a student is enrolled in or referred to a private school, the district shall ensure that a representative of the private school is invited to the IEP meeting. If a representative cannot attend, the district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.  |

| <b>Role</b>  | <b>Description</b>  |
|--|---|
| Representative of Transition Agency(s)<br>(Parental consent shall be obtained in order for the Transition Agency Representative to participate in the IEP) Team meeting. | If transition services are being discussed, a representative of any public agency that is likely to be responsible for providing or paying for transition services shall be invited. If a representative does not attend, steps shall be taken to obtain participation from the agency in transition planning.  |
| Part C Coordinator or Representative   | At the request of the parent of a student who previously was served under Part C, the Part C coordinator or other representative of the Part C system will be invited to the initial IEP meeting.   |
| Other  | At the discretion of the parent and/or adult student or the district, other individuals who have knowledge or special expertise regarding the student, including related service personnel, may be included as IEP team members. The determination of having knowledge and special expertise regarding the student shall be made by the parent and/or adult student or district person who invited the individual to be a member of the IEP team. |

### **E. The General Educator's Role in IEP Development**

If a student is participating in the general education curriculum or environment, not less than one of the student's general education teachers who are responsible for implementing any portion of the IEP shall participate to the extent appropriate in developing the IEP. Regardless, a representative that is knowledgeable of the general education curriculum shall participate.

The general education teacher's role in the development, review, and revision of the IEP includes:

1. Discussion of the student's involvement and progress in the general education curriculum;
2. Determination of appropriate positive behavioral interventions and other strategies for the student; and
3. Determination of supplementary aids and services, program accommodations/adaptations, and supports for school personnel.



**F. Invitation to IEP Team Meetings**

To the extent possible, the district should encourage the consolidation of all IEP team meetings, including meetings that may involve eligibility, reevaluation and IEP development.

The district shall do the following:

1. Schedule the meeting at a place and time mutually agreed on by the parent and/or adult student and the district.
2. Invite the parent and/or adult student to the meeting early enough to ensure that he or she can attend. The district shall keep a record of this invitation. The invitation shall include the following:
  - a. the purpose, time, and location of the meeting;
  - b. who will attend the meeting; and
  - c. information regarding the parent's/adult student's right to bring other people to the meeting.

The invitation should clarify the parent's/adult student's role on the team and request that he or she come prepared to discuss the unique needs and characteristics of the student, the types of services that may be needed, and the goals that would indicate the success of the services.

3. Invite the student, if appropriate or required, to attend and participate in his or her IEP team meeting. If the student is a minor, the parent shall make the decision regarding the student's attendance. If a purpose of the meeting is to consider transition, and the student does not attend, the district shall take other steps to ensure that the student's preferences and interests are considered.
4. The invitation may be either written or oral. In either case, the district shall document that all the required components noted in item 2 above were included in the invitation. In addition, the parent and/or adult student shall be provided with a copy of the *Procedural Safeguards Notice* once annually, preferably at the annual review.
5. When one of the purposes of the IEP team meeting is to consider transition services, the invitation shall also:
  - a. indicate this purpose;
  - b. indicate that the district shall invite the student; and

- c. identify any other agency that will be invited, with parent's or adult student's consent, to send a representative.
6. The district shall take appropriate action to ensure that a parent and/or adult student understands the proceedings at an IEP team meeting, including arranging for an interpreter for a parent and/or adult student who has a hearing impairment or whose native language is other than English.
7. The IEP team may meet without the parent and/or adult student if he or she cannot attend the meeting or cannot be convinced to attend the meeting. However, the district shall document its attempts to arrange a mutually agreed upon time and place for the meeting. Documentation could include records of telephone calls or conversations, copies of correspondence sent to the parent and/or adult student and any responses received, and detailed records of any visits made to the parent and/or adult student. If a meeting is held without the parent and/or adult student, the district shall offer and document alternative methods, such as conference calls, to gain his or her participation in the development of the IEP.
8. Alternatives to physical meetings such as video and telephone conferencing may take the place of physical IEP meetings if the parent and/or adult student and district agree.

## **Section 2. IEP Development**

Nothing requires additional information be included in a student's IEP beyond what is explicitly required by IDEA 2004 or requires the IEP team to include information under one component of a student's IEP that is already contained under another component of the student's IEP.

NOTE: IEP Team meeting minutes are not part of the official IEP document.

### **A. General Demographic Components for All IEPs**

All IEPs shall include the date of the IEP meeting and the following general demographic components: the student's name as it appears in school records, native language, birth date, and identification number (for state reporting or Medicaid purposes only), names of parents, address, phone number, school, and grade.

### **B. Documentation of Participants**

The district shall ensure the attendance and participation of the IEP team members at the IEP meeting. Documentation of attendance can be accomplished by listing team members on the IEP and checking their attendance status.

The attendance list is not a reflection of agreement or disagreement with the IEP; it is only an indication of attendance. As with any team member, the parent's/adult student's name on the list does not indicate agreement or disagreement with the IEP contents. If the parent and/or adult student disagrees with all or part of the IEP, the district should remind the parent and/or adult student that he or she may file a written objection.

NOTE: See Section 1J for additional information on parent and/or adult student objections.

### **C. Present Levels of Performance, Goals, and Benchmarks/Objectives**

The IEP identifies present levels of academic achievement and functional performance and measurable goals that enable the IEP team to track the effectiveness of services and to easily report progress toward goals.

1. Statements of present levels of academic achievement, and functional performance in an area of need include:
  - a. How a school-age student's disability affects his or her involvement and progress in the general education curriculum (i.e., the same curriculum used by students without disabilities).
  - b. For preschool students, present levels of performance should reference the Idaho Early Learning Standards and describe how the disability affects the student's participation in appropriate activities.
2. Although the content of present levels of performance statements are different for each student, each statement shall:
  - a. be written in objective, measurable terms and easy-to-understand non-technical language;
  - b. show a direct relationship with the other components of the IEP, including special education services, annual goals, and, if applicable, benchmarks/objectives for students who participate in an Idaho Alternate Assessment;
  - c. provide a starting point for goal development; and
  - d. reference general education Idaho Content Standards.
3. Annual goals shall be related to the needs described in the present levels of performance statements. Measurable academic achievement, developmental, and functional annual goals are designed to meet the student's needs that result from the student's disability, to enable the student to be involved in and make progress in the general education curriculum, and to meet each of the student's other educational needs that result from the student's disability.

- a. A goal is a written, measurable statement that describes what a student is reasonably expected to accomplish within the time period covered by the IEP, generally one year.
  - b. Goals are written to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.
  - c. A goal shall include the behavior, the performance criteria, and the evaluation procedure.
4. For students taking an Idaho Alternate Assessment aligned to the alternate standards, each goal shall have at least two benchmarks/objectives. Benchmarks/objectives shall include a statement of how far the student is expected to progress toward the annual goal and by what date. The district has the discretion to use benchmarks/objectives as described in this paragraph for all students eligible for IEP services.

#### **D. Progress Toward Goals**

The IEP shall include a statement describing:

1. How the student's progress toward IEP goals will be measured;
2. How the parent and/or adult student will be informed of the student's progress toward the annual goals, including the extent to which progress is sufficient to enable the student to achieve the goals by the end of the IEP time period.

Periodic progress reports, concurrent with the issuance of report cards shall be provided.

#### **E. Statements of Special Education and Related Services**

Each student's IEP shall describe the special education and related services, based on peer-reviewed research to the extent practicable, which will be provided to or on behalf of the student. Special education includes specially designed instruction to meet the unique needs of the student.

The term "related services" refers to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education as described in the IEP. These services include, but are not limited to:

- ▶ audiology
- ▶ speech therapy
- ▶ language therapy
- ▶ psychological services
- ▶ physical therapy
- ▶ occupational therapy
- ▶ therapeutic recreation,
- ▶ early identification and assessment of students' disabilities
- ▶ rehabilitation counseling services
- ▶ orientation and mobility services
- ▶ medical services for diagnostic or evaluative purposes
- ▶ school nurse services
- ▶ social work services in school
- ▶ supports for school staff
- ▶ parent counseling and training. Parent counseling and training includes helping a parent (a) understand child development and the special needs of his or her child and (b) acquire skills to support the implementation of his or her child's IEP.
- ▶ interpreter services

NOTE: An Idaho State Department of Education document provides guidance regarding educational interpreter standards. The Idaho Legislature has established standards which take effect in 2009.

This list of related services is not exhaustive and may include other developmental, corrective, or supportive services, transition services or assistive technology. Although services may be of benefit to a student with a disability, all of the services listed above may not be required for each individual student. Related services are the responsibility of the district only if the IEP team determines they are required to assist the student to benefit from special education. Further, the student is not entitled to related services if (a) he or she is not eligible for special education or (b) the parent and/or adult student does not consent to initial provision of special education services.

EXCEPTION: The term does not include a medical device that is surgically implanted or the replacement of such device, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. The district is responsible to appropriately monitor and check devices to make sure the devices are functioning properly. This responsibility applies to devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school.

THIRD PARTY PAYERS: Consent from the parents or adult student is required when the district bills Medicaid or the parent's insurance for services provided. See Chapter 11 for details.

**F. Supplementary Aids, Services, and Other IEP Considerations**

Supplementary aids and services may include general education curriculum accommodations and/or adaptations, support for school staff, positive behavioral intervention plans, extended school year services, transportation, transition services, assistive technology services, and travel training services deemed appropriate by the IEP Team shall be provided whether or not the district currently has these services in place.

The description of services in the IEP shall:

1. Identify the program accommodations and supplementary aids to be provided to the student in the areas of need.
2. List the specific services that will meet the unique needs of the student, allowing him or her to advance appropriately toward attaining the annual goals, and:
  - a. be involved in and make progress in the general education curriculum;
  - b. participate in extracurricular and other nonacademic activities; and
  - c. be educated and participate with other students with disabilities and with students without disabilities to the maximum extent appropriate.

NOTE: The public agency shall ensure that each student with a disability has the supplementary aids and services determined by the student's IEP Team to be appropriate and necessary for the student to participate in nonacademic settings.

3. State the projected starting date and expected duration of the services, and accommodations/adaptations.
4. List the anticipated time per session and frequency of sessions per week or month. The amount of service may not be stated as a range.
5. State the location where services and accommodations/adaptations will be provided.

Based on the unique needs of each student, the IEP team should consider any of the following services that may be appropriate for the student and should document such services on the IEP accordingly:

**1. Supplementary Aids and Services**

“Supplementary aids and services” means aids, services, and other supports that are provided in general education classes or other education-related settings and in extracurricular and nonacademic settings to enable students with disabilities to be

educated with students without disabilities to the maximum extent appropriate in accordance with LRE requirements.

The determination of which supplementary aids and services are appropriate for a particular student shall be made on an individual basis. Supplementary aids and services may include the following: assistance of an itinerant special education teacher, related service provider, or paraprofessional; support or training for the general educator; use of resource services; provision of note takers; supports for extracurricular or other nonacademic activities; and supports for participation in statewide or district wide achievement testing.

## **2. Accommodations and Adaptations**

NOTE: “Modifications” include accommodations and adaptations. Idaho uses the terms accommodations and adaptations to describe two separate instructional and assessment practices.

Accommodations and adaptations include any changes that allow students with disabilities the same opportunity as students without disabilities to participate in and benefit from the educational program, activities, and services of the district.

Accommodations are intended to make educational opportunities more accessible. This may involve the setting, communication modality, equipment, and/or supplemental aids and services. Examples include Braille editions, large print, pencil grips, tape recorders, note takers, and computers with spell check.

Adaptations are changes in educational expectations for the student with a disability compared to peers without disabilities. These adaptations include actual changes in the general education curriculum and instruction or the use of an alternative or supplemental curriculum. Examples include fewer concepts to be mastered, different test questions, and material at a different reading level.

Whenever the IEP team determines that accommodations and/or adaptations are needed to ensure academic progress, these shall be indicated in the IEP. Any accommodations and/or adaptations required in physical education, vocational education, and statewide or district wide assessments shall be included in the IEP.

## **3. Assistive Technology Devices and/or Services**

The district shall ensure that assistive technology devices and/or services are made available to a student, if required, as special education, related services, or supplementary aids and services. The following points are definitions and clarifications of terms:

- a. “Assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term does not include a device that is surgically implanted or the replacement of such device.

The district shall permit the student to use school-purchased assistive technology devices at home and in other settings if the IEP team determines that the student needs access to these devices in non-school settings to receive FAPE. An example of this would be to complete homework. The district may hold a parent and/or adult student liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the district if it is lost, stolen, or damaged because of negligence or misuse at home or in another setting outside of school time.

Assistive technology devices should be designed using “universal design” principles. The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities. This includes products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

- b. “Assistive technology service” means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:
- (1) an evaluation of the student’s assistive technology needs, including a functional assessment in the student’s customary environment;
  - (2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
  - (3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
  - (4) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - (5) training or technical assistance for a student with a disability or, if appropriate, that student’s family; and
  - (6) training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals



who provide services or are otherwise substantially involved in the major life functions of a student with a disability.

- c. The district shall ensure that the hearing aids worn by deaf or hard-of-hearing students in school are functioning properly.
- d. The district is responsible to appropriately monitor and check surgically implanted devices to make sure the devices are functioning properly, if the team has determined that those services are necessary. This responsibility applies to devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school.

#### 4. Extended School Year Services

The district shall provide extended school year (ESY) services for students with disabilities who qualify for such services. The ESY programs for eligible students shall meet the requirements of FAPE. The student's educational program is based on individual needs and is not determined by what programs are readily available within the district. The student cannot be required to fail, or to go for an entire school year without ESY services, simply to prove a need. The IEP team shall consider the following in the development and provision of an ESY program:

- a. The term "extended school year services" means special education and/or related services that are provided beyond the regular school year:
  - (1) to a student with a disability;
  - (2) in accordance with the student's IEP; and
  - (3) at no cost to the parent and/or adult student.

The goal of ESY services is to assist students with disabilities with the emergence and maintenance of specific IEP goals addressed during the school year preceding the ESY. These may include goals related to independence, behavior, socialization, communication, and academics. The ESY services for special education students provide a different focus from general summer school programs.

- b. The ESY services shall be considered in light of the totality of the circumstances, including the following:
  - (1) **Emerging skill:** Few, if any, gains are made during the regular school year. A skill is in the process of emerging, and the IEP team believes that with ESY services the student would make reasonable gains; or

- (2) **Regression-Recoupment:** The student would regress to such an extent and the amount of time required to relearn a skill or behavior becomes so significant that the student would be unable to benefit from his or her special education; or
  - (3) **Self-Sufficiency:** An interruption in services would threaten the acquisition of critical life skills that aid in the student's ability to function as independently as possible, thereby continuing the student's reliance on caretakers, including institutionalized care. Critical life skills relate to those skills that lead to independent functioning. Development of these skills can lead to reduced dependency on future caretakers and enhance the student's integration with individuals without disabilities. Skills may include such things as toileting, feeding, mobility, communication, dressing, self-help, and social/emotional functioning.
- c. Decisions concerning ESY services shall be based on collected data and written documentation. Types of data and information may include, but are not limited to, the following:
- (1) **Criterion-referenced test data:** Consider daily/weekly probes or pre-test/post-test data.
  - (2) **Norm-referenced test data:** Consider pre-test/post-test data.
  - (3) **Anecdotal records:** Consider information collected throughout the school year.
  - (4) **Physical, mental, or emotional health factors:** Consider the educational, medical, and psychological records of the student as well as the prognosis or judgments of educators, medical personnel, parents, and others that work with the student. Consider degenerative types of difficulties that may become intensified during breaks in educational programming.
  - (5) **History:** Consider evidence of past regression or past ESY services. The IEP team should not automatically assume that a student who has received ESY services in the past will be eligible for ESY services in the future, but it is a factor to consider.
  - (6) **Data on observed performance:** Consider data maintained on the student concerning performance observed in the classroom, during community-based activities, and as part of IEP progress monitoring.

- (7) **Teacher interviews and recommendations:** Consider progress reports by teachers, therapists, and others who have direct contact with the student before and after breaks in educational programming.
- (8) **Parent and/or adult student input:** Consider parent observations of the student as well as parent and/or adult student requests for ESY services.
- d. The ESY services shall be clearly delineated in an IEP. The district can meet this requirement by amending the current IEP using an amendment form or by developing a complete ESY IEP. See Section 1C of this chapter for more information.
- e. The district may not limit ESY services to particular categories of disability or unilaterally limit the amount or duration of these services.

## 5. Transportation

Transportation is a related service if special arrangements resulting from the student's disability are required to assist a student with a disability to benefit from special education. The student's individual needs concerning his or her education are the main considerations in determining services—this includes transportation services.

The IEP team shall consider how the student's disability affects his or her need for transportation, including determining whether the student's disability prevents the student from using the same transportation provided to students without disabilities, or from getting to school in the same manner as students without disabilities. This includes transporting a preschool-age student to the site at which the district provides special education and related services to the student, if that site is different from the site at which the student receives other preschool or day-care services.

When the IEP team determines that special transportation is required and documents it on the IEP, all procedural safeguards under the IDEA 2004 shall be afforded to the student in matters concerning transportation.

Transportation needs may include, but are not limited to, the following:

- a. travel to and from school and between schools to access special education;
- b. travel in and around school buildings;
- c. specialized equipment including lifts and ramps, if required to provide special transportation; or
- d. other services that support the student's use of transportation, such as:

- (1) special assistance (e.g., an aide on the bus and assistance getting on and off the bus);
- (2) safety restraints, wheelchair restraints, and child safety seats;
- (3) accommodations (e.g., preferential seating, a positive behavioral support plan for the student on the bus, and altering the bus route); or
- (4) training for the bus driver regarding the student's disability or special health-related needs.
- (5) attending non-academic and extracurricular activities if required by the IEP.

## **6. Special Considerations**

As appropriate, the IEP team shall also consider and include in the IEP the following:

- a. If the student's behavior impedes his or her learning or that of others, the IEP team shall consider the use of positive behavioral supports and other strategies to address that behavior.
- b. If the student has limited English proficiency, the IEP team shall consider the language needs of the student. Cognitive academic language proficiency (CALP) shall be determined by administering appropriate language dominance tests.
- c. If the student is blind or visually impaired, the IEP team shall provide for instruction in Braille and the use of Braille unless the IEP team determines that Braille is not appropriate for the student. This determination can only be made after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille).
- d. The IEP team shall consider the communication needs of the student. In the case of the student who is deaf or hearing impaired, the IEP team shall consider the language needs of the student, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, the student's academic level, and his or her full range of needs including opportunities for direct instruction in the student's language and communication mode.

## G. Statewide and Districtwide Achievement Testing

Students with disabilities are to be included in all statewide and district wide assessments. Participation rates and performance data, both aggregate and disaggregate, for students with disabilities are reported to the public annually.

The IEP team shall determine how the student will participate in statewide and district wide assessments—without accommodations, with accommodations, with adaptations, or by means of an alternate assessment. The IEP team determines what accommodations and/or adaptations to use based on those that are used regularly by the student during instruction or classroom testing and on what is listed in the accommodations section of the IEP.

The IEP team shall determine whether the student meets the state criteria for the alternate assessment. It should be noted that some students might participate in parts of the regular assessment and parts of the alternate assessment. For example, a student may participate with accommodations in the *regular* reading portion of the statewide assessment and may participate in the math portion of the statewide assessment using the *alternate* assessment.

The following guidelines shall be used to determine how the student will participate in statewide and district wide assessments:

1. Regular Assessment without Accommodations

The IEP team determines and documents in the IEP that a student with a disability can adequately demonstrate his or her knowledge, abilities, or skills on statewide and district wide assessments without accommodations.

2. Regular Assessment with Accommodations

Appropriate accommodations for students with disabilities shall be based on the individual needs of each student. Accommodation decisions are made by the IEP team and shall be recorded in the IEP. Accommodations should facilitate an accurate demonstration of academic achievement, developmental, and functional performance on state and district wide assessments. They should not provide the student with an unfair advantage or change the underlying skills that are being measured by the test. Accommodations shall be the same or nearly the same as those used by the student in completing classroom assignments and assessment activities. The accommodations shall be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery. Accommodations *do not* invalidate test results.

3. Regular Assessments with Adaptations

A student may be unable to demonstrate what he or she knows or is able to do without using an adaptation. However, an adaptation inherently circumvents the underlying

skills that the test is measuring; therefore, an adaptation *always* invalidates the assessment result. If an adaptation is included in the IEP for statewide and/or district wide assessments, it shall be one that the student uses in completing classroom assignments and assessment activities on a regular basis. Further, the use of an adaptation in statewide and district wide assessments shall be clearly coded on the student's score sheet.

The IEP team has the authority to make the decision that a student needs an adaptation in order to participate in statewide and district wide assessments, even though the adaptation *will* cause the student to score as "not proficient" and to be counted as NOT participating in the assessment under AYP determinations. All IEP team members, including the parent and/or adult student, shall understand (a) the possible consequences that could result from this decision and (b) its effect on diploma options and post school activities involving education, career opportunities, military service, and community participation.

#### 4. Idaho Alternate Assessments

If the student cannot participate in some or all of the general assessments, the IEP shall contain a statement that includes the reason the student cannot participate in the general assessment and the alternate assessments—language arts, reading, math or science—in which the student will participate.

##### a. Students Eligible to Take an IAA

The IEP team shall find that the student meets all of the criteria listed below to determine that he or she is eligible to participate in an alternate assessment:

- (1) The student's demonstrated cognitive ability and adaptive behavior prevent completion of the general academic curriculum even with program accommodations and/or adaptations;
- (2) The student's course of study is primarily functional-skill and living-skill oriented (typically not measured by state or district assessments); and
- (3) The student is unable to acquire, maintain, or generalize skills in multiple settings and to demonstrate performance of these skills without intensive and frequent individualized instruction.

##### b. Students Not Eligible to Take an IAA

Students are *not* to be included in an alternate assessment for any of the following reasons:

- (1) The only determining factor is that the student has an IEP;
- (2) The student is academically behind because of excessive absences or lack of instruction; or
- (3) The student is unable to complete the general academic curriculum because of socioeconomic or cultural differences.

## **H. LRE Explanation and Placement Decisions**

The IEP shall explain the extent, if any, to which the student will *not* participate in the general education classroom, the general education curriculum, or extracurricular or other nonacademic activities.

In recommending the most appropriate placement in the least restrictive environment (LRE) for the student with a disability, the IEP team shall consider the student's needs and the continuum of services available to meet those needs. The parent and/or adult student shall be involved in the placement decision. Removal from the general education environment occurs only when the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. A student with a disability is not to be removed from age-appropriate general education classrooms solely because of needed accommodations and adaptations in the general education curriculum. In addition, a student with a disability shall be educated with students without disabilities in the general education classroom to the maximum extent appropriate..

NOTE: The district's reassignment of students (with or without disabilities) to another classroom or building in the district is *not* a change of placement for a student with a disability as long as the IEP goals remain unchanged and the degree of interaction with peers without disabilities remains the same. Examples include, but are not limited to, dividing a class because of overcrowding; moving an entire grade level to a different building; and going to a different school as a result of moving from one grade level to another grade level.

See Chapter 6 for more information on placement in the LRE

## **I. Consent for Initial Provision of Special Education and Related Services**

The district shall make reasonable effort to obtain informed consent from the parent or the adult student before the initial provision of special education and related services to the student.

If the parent and/or adult student communicates in writing, he or she refuses special education and related services following the evaluation and determination of eligibility, the district shall not provide special education and related services to the student. If the parent and/or adult student fails to respond to a district's documented efforts to gain consent for initial provision of special

education and related services, the district shall not provide special education and related services to the student. In both cases:

1. The district shall not be in violation of the requirement to provide FAPE to the student or the requirement to provide special education and related services; and
2. The district shall not be required to convene an IEP meeting or develop an IEP for the student.
3. The district shall not use due process in order to obtain consent or a ruling allowing initial placement.

If the parent and/or adult student wishes to move forward with the provision of services stated on the IEP and placement in special education, consent for initial placement in special education shall be obtained after the development of an IEP. Consent means that the parent and/or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought.

#### **J. Parent and/or adult Student Objection to the IEP**

If the parent and/or adult student disagrees with an IEP change or placement change proposed by the district, he or she may file a written objection to all or parts of the proposed change. If the parent and/or adult student files a written objection that is postmarked or hand delivered within 10 days of the date he or she receives written notice from the district of the proposed change, the changes to which the parent and/or adult student objects cannot be implemented. If the changes have already been implemented, implementation of those changes shall cease. The district and parent and/or adult student may use informal methods such as additional IEP team meetings, IEP facilitation, or SDE mediation to resolve the disagreement. If these informal attempts to resolve the dispute fail, the district may request a due process hearing to obtain a hearing officer's decision regarding the proposed change, unless it is an initial IEP.

If the parent and/or adult student files a written objection to an IEP change or placement change proposed by the district any time *after* 10 days of receiving written notice, the student shall "stay put" in the placement described in the disputed IEP, and that IEP is implemented as written until the disagreement is resolved unless the parent and/or adult student agree otherwise. However, the written objection cannot be used to prevent the district from placing a student in an interim alternative educational setting (IAES) in accordance with the IDEA 2004 procedures for discipline of a student.

See Chapter 11 for information about the prior written notice requirements regarding the provision of FAPE and educational placement.

See Chapter 13 for more information about the various forms of dispute resolution.



**K. Additional Transition Components for Secondary-Level IEPs**

Secondary transition services are defined as a coordinated set of activities for a student with a disability that are designed within a results-oriented process focused on improving the academic and functional achievement of the student to facilitate movement from school to post school activities including postsecondary education, vocational education, integrated employment (including supported employment), continuing in adult education, adult services, independent living, or community participation.. The activities include instruction, community experiences, development of employment and other post school adult-living objectives and, if appropriate, acquisition of daily living skills and a functional vocational evaluation. These activities are based on the individual student's needs, taking into account the student's strengths, preferences and interests. The following are required components for all secondary students receiving special education services.

1. Beginning with the IEP to be in effect when a student is 16 years old (or younger if determined appropriate by the IEP team), the IEP shall include:
  - a. present levels of educational performance based on an age appropriate transition evaluation;
  - b. appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
  - c. transition services (including courses of study) needed to assist the student in reaching postsecondary goals identified on the IEP;
  - d. graduation requirements for the student receiving special education services, refer to Chapter 7 for more detailed information on documentation of high school graduation in the IEP.

The goals and transition services shall be updated on the IEP annually.

2. Not later than the student's 17th birthday, the IEP shall include a statement that the student has been informed whether or not special education rights will transfer to the student on his or her 18th birthday. Special education rights will transfer from the parent to the student when the student turns 18 years old unless the IEP team determines that:  
*(For more information on the transfer of rights see Chapter 11)*
  - a. the student is unable to provide informed consent with respect to his or her special education program; or
  - b. the parent has obtained legal guardianship.

3. When a student exits from special education as a result of earning a regular diploma or aging out, the district shall provide the student with a summary of his or her academic achievement and performance along with recommendations concerning how to assist the student in meeting postsecondary goals.

#### **L. Following the Meeting**

Following the IEP team meeting, a copy of the IEP and written notice of proposed or refused actions shall be given to the parent and/or adult student. IEPs and written notice should also be given to the parent and/or adult student whenever a change is made to the IEP or upon request.

Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the IEP shall have access to the IEP and be informed of his or her specific responsibilities. This includes being informed of any specific accommodations, adaptations, or supports that shall be provided to the student to ensure that the IEP is implemented appropriately.

### **Section 3. IEP Reviews**

#### **A. Annual Reviews**

Each student's IEP shall be reviewed at least annually, once every 365 days. Meetings may be held any time throughout the school year, as long as the IEP is reviewed annually and is in effect at the beginning of each school year. Either at or after the annual review, written notice that the new IEP changes will be implemented shall be provided to the parent and/or adult student.

The IEP review includes the following purposes:

1. to determine whether the student's annual goals have been achieved;
2. to revise the IEP if there is any lack of expected progress toward annual goals and in the general education curriculum, where appropriate;
3. to determine whether any additional assessments are necessary and to address the results of those conducted;
4. to address information about the student provided to, or by, the parent and/or adult student;
5. to address the student's anticipated needs;

6. to monitor the continuing eligibility of the student based on an evaluation or review of a variety of data, which may include formal or informal assessment, progress toward IEP goals and when applicable benchmarks/objectives;
7. to write a new IEP; and
8. to consider a reevaluation to determine if a student is no longer eligible and special education services should be discontinued.

## **B. IEP Amendments**

In making changes to a student's IEP after the annual IEP meeting for a school year, the parent and/or adult student and the district may agree in writing not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend the student's current IEP. The parent and/or adult student will be provided with a revised copy of the IEP with the amendments incorporated. The annual review date remains the date of the original IEP.

If the parent and/or adult student believes that the student is not progressing satisfactorily or that there is a problem with the current IEP, he or she may request an IEP team meeting. The district shall grant any reasonable request for such a meeting. If the district refuses to convene an IEP meeting requested by the parent and/or adult student, the district shall provide written notice to the parent and/or adult student, including an explanation of why the district has determined the meeting is unnecessary.

If any other member of the IEP team feels that the student's placement or IEP services are not appropriate, that team member may request an IEP team meeting.

Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the amended IEP shall have access to the amendment and be informed of his or her specific responsibilities.

## **Section 4. IEPs for Transfer Students**

### **A. Transfer from an Idaho School District**

When a student with a disability transfers school districts with a current IEP in Idaho, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and/or adult student, until such time as the district adopts the previously held IEP or develops, adopts, and implements a new IEP. The receiving district shall promptly request records from the sending district and once the district has formally received a request for a student's record from another Idaho district, the district shall forward copies or the original documents within 10 days of the request. If originals are sent, the sending district shall maintain a copy for audit purposes.

**B. Transfer from an Out-of-State District**

When a student with a disability transfers from out of state to an Idaho school district with a current IEP in that other state, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and/or adult student, until such time as the district conducts an evaluation, if determined necessary, and develops, adopts, and implements a new IEP.

If the district has formally received a request from an out-of-state school, the district shall forward copies or the original documents within 10 days of the request. If originals are sent, the district shall maintain a copy for audit purposes.

**Section 5. IEPs for Children from the Infant Toddler Program****A. Interagency Agreement and Protocols**

The school district, as the local lead agency for Part B, shall initiate the development of a signed interagency protocol with the regional Infant Toddler Program (ITP) of the Department of Health and Welfare (DHW), the lead agency under Part C of the IDEA 2004. The protocol shall be in accordance with the current state Interagency Agreement for Early Childhood Special Education Services and Early Intervention for Children Ages Two through Five. See Appendix 5C.

The protocol will outline the obligations of each agency to ensure:

1. a smooth and effective transition of children served under Part C to early childhood special education services (ECSE) under Part B,
2. by the child's third birthday, eligibility for Part B services has been determined and an IEP or Individual Family Service Plan (IFSP) has been developed and implemented, and
3. each district and agency shall participate in transition planning conferences.

NOTE: A child, who turns three after May 1, has been determined eligible for Part B services, and parental consent has been obtained for initial placement for Part B services, can be served as outlined in the IFSP by the ITP until school starts in the fall. This is the case unless specified differently in the local interagency protocol.

**B. Part C to Part B Transition Planning**

In the case of a child who may be eligible for ECSE services, the district shall participate in a transition planning conference with the family arranged by the Infant Toddler Program. The conference will be conducted at least 90 calendar days (and up to 9 months at the discretion of all parties) before the child's 3rd birthday to discuss eligibility requirements under Part B of the IDEA 2004, needs and concerns of the child and family, and any services the child may receive.

For a complete and detailed description of all required transition activities, documentation and timelines, refer to Appendix 5C.

The Infant Toddler Program has the responsibility to:

1. notify the school district of potentially eligible children,
2. invite and coordinate a transition planning meeting to review the process to determine eligibility and assess service options available,
3. establish a plan for facilitating the transition of the toddler with a disability to early childhood special education services,
4. provide the district with a copy of the Child Outcome Summary Form (COSF) completed at exit, and
5. upon invitation, attend the initial IEP meeting.

The school district has the responsibility to:

1. attend and participate in the transition planning meeting,
2. determine eligibility and develop an IEP or IFSP prior to child's third birthday,
3. consider the Part C COSF exit outcome data for Part B early childhood entry outcome data,
4. invite Infant Toddler Program representatives, at the request of the parent, to the initial IEP meeting, and
5. obtain consent for initial provision of special education and related services under Part B.

**C. IEP or IFSP Required**

1. By the child's third birthday, the district shall have an IEP or IFSP in place for each student 3 through 5 years old who is eligible for ECSE services.
2. In developing the IEP, the IEP Team shall consider the content of the IFSP including:
  - a. the natural environments statement, and
  - b. the educational component that promotes school readiness, pre-literacy, language and numeracy skills
3. The IFSP may serve as the IEP of the child, if:
  - a. agreed by the district and the child's parents,
  - b. a detailed explanation of the differences between the IFSP and the IEP is provided to the parents (See Appendix 5C),
  - c. parental written informed consent is obtained, and
  - d. developed according to the IEP procedures outlined in Section 2 of this chapter. If the district elects to use an IFSP, the district is required to implement only the educational components of the IFSP.

**D. Consent and Notice Requirements**

1. Notice Announcing Initial IEP Team Meeting: The district shall inform the parents of their rights to request the participation of Infant Toddler representatives at the initial IEP Team Meeting for children previously served by Part C.
2. Release of Information: The district shall obtain written parental consent for the release of information to obtain pertinent student records from non-educational agencies such as Infant Toddler Programs (ITC), developmental disabilities agencies, medical providers, day-care centers, and Head Start.
3. Assessments: At the transition planning conference, if further assessments are necessary to determine eligibility, the student's present levels of performance, and goals or services on the IEP, informed consent to evaluate is required. (Parental consent for assessment under Part B is required even though the parent may have given consent earlier under Part C). Otherwise, only written notice to inform the parent of the district's decision to use the current evaluation data, and not to conduct any further assessments, shall be provided to the parent. The parent shall also be informed of his or her right to request additional assessments.

4. Consent for Initial Provision of Special Education and Related Services: Parental consent for the initial provision of special education and related services and written notice for the implementation of the IEP or IFSP under Part B is required. Eligibility, initial provision of services, and LRE placement shall be documented for Part B services.

#### **E. Child's Status During Due Process Hearing Proceedings**

If an educational placement dispute arises involving a child transitioning from Part C to Part B, the child cannot remain in Part C services when he or she is over the age of three. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the school district shall provide those special education and related services that are not in dispute between the parent and district until completion of all the hearing proceedings. If the parent does not give written consent for the special education or related services, the student will not receive services until completion of the hearing proceedings.

#### **Section 6. Students with Disabilities in Adult Prisons**

The following requirements do not apply for students with disabilities who are convicted as adults under Idaho law and incarcerated in adult prisons:

1. The student will not participate in statewide assessments.
2. Transition planning and services do not apply if the student will remain in prison beyond his or her 21st birthday.

The IEP team may revise the student's IEP and placement, regardless of the LRE requirements, if the state has demonstrated a bona fide security or other compelling penological interest that cannot be otherwise accommodated.

